

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

HARRY SMITH, JR., and ROSLYN)
WOODARD SMITH, individually and as)
Administrators of the ESTATE OF HARRY)
SMITH, III)

Plaintiffs,)

v.)

CITY OF WILMINGTON, JOHN)
CIRITELLA, THOMAS DEMPSEY and)
MATTHEW KURTEN,)

Defendants.)

C.A. No. 04-1254-GMS

JURY TRIAL DEMANDED

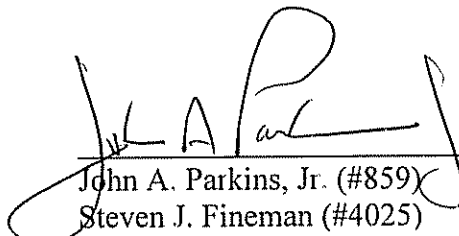
DEFENDANTS' SUPPLEMENTAL MOTION FOR SUMMARY JUDGMENT

Pursuant to this Court's order of February 7, 2007, defendants move for summary judgment dismissing Counts I and III of Plaintiffs' Second Amended Complaint. The reasons for this motion are set forth in the Opening Brief filed contemporaneously herewith. Nothing herein is intended as a waiver of the arguments made by defendants in support of their first motion for summary judgment to dismiss plaintiffs' remaining claims nor is anything herein intended as a waiver of defendants' arguments that they are entitled to official immunity and various state law immunities.

OF COUNSEL:

Rosamaria Tassone
City of Wilmington Law Department
City/County Building, 9th Floor
800 N. French Street
Wilmington, Delaware 19801
302-576-2175

Dated: February 21, 2007



John A. Parkins, Jr. (#859)
Steven J. Fineman (#4025)
Richards, Layton & Finger
One Rodney Square
P. O. Box 551
Wilmington, Delaware 19899
302-651-7700
Attorneys for Defendants

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DISTRICT OF DELAWARE**

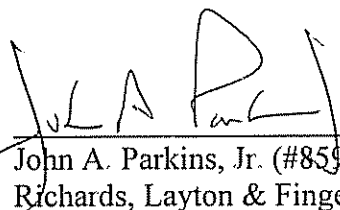
CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2007, I electronically filed the foregoing document with the Clerk of Court using CM/ECF which will send notification of such filing(s) and Hand Delivered to the following:

Kester I.H. Crosse, Esquire
Williams & Crosse
1214 King Street
Suite 300
Wilmington, DE 19801

I hereby certify that on February 21, 2007, I have sent by U.S. Regular Mail, the foregoing document to the following non-registered participants:

Anne T. Sulton, Esquire
Post Office Box 2763
Olympia, WA 98507



John A. Parkins, Jr. (#859)
Richards, Layton & Finger, P.A.
One Rodney Square
P.O. Box 551
Wilmington, Delaware 19899
(302) 651-7700
Parkins@rlf.com